

ID: 03154-SN-19-CS

Customer: New Los Angeles Charter School

Fiscal Year: 2018-19

Type: Procurement Review

SubType: Formal Procurement (IFB & RFP)

Vendor: Revolution Foods

Question Group: **Solicitation - General**

USDA Question:

Was cost/price analysis conducted to estimate the cost of goods or services prior to soliciting [2 *CFR*, Section 200.323]?

In compliance with Federal Regulations: NO

Error:

The Operator stated that cost/price analysis was not conducted to estimate the cost of goods or services prior to soliciting.

Technical Assistance:

The Operator shall amend its written Procurement Procedures to mandate cost/price analysis be conducted to estimate the cost of goods or services prior to soliciting.

Question Group: **Solicitation - Competitive**

USDA Question:

Did the Invitation for Bid (IFB) or Request for Proposal (RFP): Include the requirement for contract award to the lowest responsive and responsible bidder or bid/offer most advantageous to the program with price and other factors considered (Price as the primary factor) [2 *CFR*, sections 200.320(c)(2)(iv) and 200.320(d)(4)]?

In compliance with Federal Regulations: NO

Error:

The IFB/RFP is out of compliance with 2 *CFR*, Section 200.320(c)(2)(iv) or 200.320(d)(4) because it did not include the requirement to award contract to the lowest responsive and responsible bidder or bid/offer most advantageous to the program with price as the primary factor.

Technical Assistance:

The program operator shall amend its written Procurement Procedures to mandate the inclusion of the requirement for the contract to be awarded to the lowest responsive and responsible bidder or bid/offer most advantageous to the program with price and other factors considered in the IFB/RFP.

USDA Question:

Did the Invitation for Bid (IFB) or Request for Proposal (RFP): Provide adequate time provided for bidders to respond prior to the bid opening date [2 CFR, Section 200.320(c)(2)(i)]?

In compliance with Federal Regulations: NO

Error:

The RFP did not provide adequate time for bidders to respond prior to the bid opening date. Only one day existed between the end of advertising (8/31/16) and the bid opening date (9/2/16).

Technical Assistance:

The Operator must amend its Procurement Procedures to ensure that the program operator will provide adequate time for qualified sources to submit their bids or proposals. [2 CFR, Section 200.320(c)(2)(i) or 200.319(a)(1)]

USDA Question:

Did the Invitation for Bid or Request for Proposal include the following clauses, as applicable: Byrd Anti-Lobbying Amendment [31 U.S.C. 1352] [2 CFR, Appendix II to Part 200(i)] (For contracts worth \$100,000 or more)?

In compliance with Federal Regulations: NO

Error:

The Request for Proposal does not include the Byrd Anti-Lobbying Amendment.

Technical Assistance:

The Operator must amend its existing contract to include the Byrd Anti-Lobbying certificate. In addition, the Operator shall amend its written Procurement Procedures to ensure future IFBs/RFPs will include for Byrd Anti-Lobbying provision. [2 CFR, Appendix II to Part 200]

USDA Question:

Did the Invitation for Bid or Request for Proposal include all requirements regarding Buy American provision including [7 CFR, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food?

In compliance with Federal Regulations: NO

Error:

The Request for Proposal does not include all requirements regarding the Buy American provision including a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food.

Technical Assistance:

The Operator must amend its existing contract to include implementation of the Buy America Provision exception. In addition, the Operator shall amend its written Procurement Procedures to mandate the inclusion of a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food in all of its future IFB/RFPs.

USDA Question:

Did the Invitation for Bid or Request for Proposal include all processing requirements regarding Buy American provision including [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a requirement to document the use of a non-domestic alternative food due to the domestic food not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality?

In compliance with Federal Regulations: NO

Error:

The Request for Proposal does not include all processing requirements regarding Buy American provision including a requirement to document the use of a non-domestic alternative food due to the domestic food not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality.

Technical Assistance:

The Operator must amend its existing contract to include the implementation of the Buy America Provision exception. In addition, the Operator shall amend its written Procurement Procedures to mandate the inclusion of a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food in all of its future IFB/RFPs.

Question Group: Contract Management

USDA Question:

Did the contract include the following clauses, as applicable: Debarment and Suspension [Executive Orders 12549 and 12689](2 *CFR*, Section 200.213 and 2 *CFR*, Appendix II to Part 200(I) (All contracts)]

In compliance with Federal Regulations: NO

Error:

The awarded contract is out of compliance with 2 *CFR*, Appendix II to Part 200 due to failure to include the Debarment and Suspension provision.

Technical Assistance:

The program operator must amend its current contract to include the Debarment and Suspension clause. In addition, the program operator shall amend its written Procurement Procedures to ensure all future contracts will include the Debarment and Suspension provision. [2 *CFR*, Appendix II to Part 200]

USDA Question:

Did the contract include the following clauses, as applicable: Byrd Anti-Lobbying Amendment [31 U.S.C. 1352) (For contracts worth \$100,000 or more) 2 *CFR*, Appendix II to Part 200 (j)]

In compliance with Federal Regulations: NO

Error:

The awarded contract is out of compliance with 2 *CFR*, Appendix II to Part 200 due to failure to include the Byrd Anti-Lobbying provision in the contract.

Technical Assistance:

The program operator must amend its current contract to include the Byrd Anti-Lobbying provision. In addition, the program operator shall amend its written Procurement Procedures to ensure its future awarded contract will include the Byrd Anti-Lobbying provision. [2 *CFR*, Appendix II to Part 200]

USDA Question:

Did the contract have the Buy American provision [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017]?

In compliance with Federal Regulations: NO

Error:

The contract did not include the Buy American provision [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017].

Technical Assistance:

The program operator must amend its existing contract to include Buy America provision. In addition, the program operator shall amend its written Procurement Procedures to mandate the inclusion of Buy American Provision in all of its future contracts.

USDA Question:

Did the contract include all requirements regarding Buy American provision including [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food?

In compliance with Federal Regulations: NO

Error:

The contract did not include all requirements regarding Buy American provision including [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food.

Technical Assistance:

The program operator must amend its existing contract to include implementation of the Buy America Provision exception. In addition, the program operator shall amend its written Procurement Procedures to mandate the inclusion a requirement to document the use of a non-domestic food exception when competition reveals the cost of domestic food is significantly higher than non-domestic food in all of its future contract.

USDA Question:

Did the contract include all requirements regarding Buy American provision including [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a processed foods requirement to document the use of a non-domestic alternative food due to the domestic food not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality?

In compliance with Federal Regulations: NO

Error:

The contract does not include all processing requirements regarding Buy American provision including [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017] a requirement to document the use of a nondomestic alternative food due to the domestic food not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality.

Technical Assistance:

The program operator must amend its existing contract to include implementation of the Buy America Provision exception. In addition, the program operator shall amend its written Procurement Procedures to mandate the inclusion a requirement to requirement to document the use of a non-domestic alternative food due to the domestic food not produced or manufactured in sufficient and reasonable available quantities of a satisfactory quality in all of its future contracts [7 *CFR*, sections 210.21(d) and 220.16(d)/FNS Policy Memo SP 38-2017]..
